

Message Text

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TAGS: SHUM
SUBJECT: 34TH SESSION HUMAN RIGHTS COMMITTEE: ITEM 12--
PUBLIC AND CONFIDENTIAL PROCEDURES FOR EXAMINING ALLE-
GATIONS OF VIOLATIONS OF HUMAN RIGHTS (NETHERLANDS
STATEMENT).

1. FOLLOWING IS THE TEXT OF THE NETHERLANDS STATEMENT
IN REPLY TO THE SYG'S NOTE OF OCTOBER 15, 1977. STATE-
MENT WHICH WAS PRESENTED TO HRD JANUARY 10 MAY BE OF
INTEREST TO THE DEPARTMENT IN DEVELOPING U.S. REPLY.
NETHERLANDS, ARGENTINA AND SENEGAL ARE ONLY HRC MEMBERS
WHO HAVE SO FAR RESPONDED AND BECAUSE OF LIMITED REPLIES
LEAVES SOME DOUBT AS TO WHETHER ITEM WILL BE CONSIDERED
AT 34TH SESSION OF THE COMMISSION. FURTHER DISCUSSION
OF THIS ISSUE CONTAINED IN SEPTTEL.

2. BEGIN TEXT: REPLY OF THE KINGDOM OF THE NETHERLANDS
TO THE REQUEST OF THE SECRETARY-GENERAL OF THE UNITED
NATIONS FOR COMMENTS AND OBSERVATIONS ON THE QUESTION OF
CO-EXISTENCE OF PUBLIC AND CONFIDENTIAL PROCEDURES FOR
DEALING WITH VIOLATIONS OF HUMAN RIGHTS.

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WHEN CREATING THE COMMISSION ON HUMAN RIGHTS IN 1946,
THE ECONOMIC AND SOCIAL COUNCIL MADE IT CLEAR THAT THE
COMMISSION'S WORK COULD BE DIRECTED, IN PRINCIPLE, TO-
WARDS SUBMITTING PROPOSALS, RECOMMENDATIONS AND REPORTS
REGARDING ANY MATTER CONCERNING HUMAN RIGHTS. IN 1966,
THE COUNCIL INVITED THE COMMISSION TO CONSIDER AS A MATTER
OF IMPORTANCE AND URGENCY THE QUESTION OF THE VIOLATION OF

HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS AND TO SUBMIT TO THE COUNCIL ITS RECOMMENDATIONS ON MEASURES TO HALT THESE VIOLATIONS. IN 1967, THE COUNCIL WELCOMED THE DECISION OF THE COMMISSION TO GIVE ANNUAL CONSIDERATION TO THE ITEM ENTITLED "QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES".

THE TERMS OF REFERENCE OF THE COMMISSION HAVE BEEN WIDENED BY ECOSOC RESOLUTIONS 1235 AND 1503, WHICH AUTHORIZED THE COMMISSION TO TAKE ACTION, UNDER CERTAIN CONDITIONS, CONCERNING INFORMATION RELEVANT TO GROSS VIOLATIONS OF HUMAN RIGHTS, CONTAINED IN THE COMMUNICATIONS LISTED PURSUANT TO ECOSOC RESOLUTION 728 F. THE GOVERNMENT OF THE NETHERLANDS VALUES THIS EXPANSION OF THE MEANS OF ACTION OF THE COMMISSION. THE GOVERNMENT FURTHER HOLDS THE OPINION THAT THE CONFIDENTIALITY REQUIREMENT, LAID DOWN IN PARAGRAPH 8 OF RESOLUTION 1503, SHOULD BE SCRUPULOUSLY RESPECTED. THIS MEANS THAT MEMBERS OF THE COMMISSION AND OF THE SUB-COMMISSION ARE OBLIGED NOT TO REFER PUBLICLY TO COMMUNICATIONS DEALT WITH, VIEWS EXPRESSED OR DECISIONS TAKEN UNDER THE CONFIDENTIAL PROCEDURE, AS LONG AS THE COMMISSION HAS NOT DECIDED TO MAKE RECOMMENDATIONS TO THE COUNCIL.

ON THE OTHER HAND, THE EXPANSION OF THE MEANS OF ACTION LIMITED OFFICIAL USE

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OF THE COMMISSION UNDER ECOSOC RESOLUTIONS 1235 AND 1503 COULD NOT RESTRICT THE EXISTING COMPETENCES OF THE COMMISSION TO DEAL WITH VIOLATIONS OF HUMAN RIGHTS, INCLUDING CONSISTENT PATTERNS OF GROSS VIOLATIONS, IN ANY PART OF THE WORLD. THE NEW PROCEDURES SPELLED OUT IN THESE RESOLUTIONS WERE OF COURSE DEvised AS MEANS TO CLARIFY, NOT TO COVER UP HUMAN RIGHTS SITUATIONS.

THE CONFIDENTIALITY REQUIREMENT OF RESOLUTION 1503 DOES NOT, FOR INSTANCE, PRECLUDE MEMBERS OF THE COMMISSION OR OF THE SUB-COMMISSION FROM DISCUSSING IN PUBLIC MEETINGS, ON THE BASIS OF OTHER INFORMATION THAN THE COMMUNICATIONS REFERRED TO ABOVE, ALLEGED VIOLATIONS OF HUMAN RIGHTS IN A COUNTRY IF COMMUNICATIONS PERTAINING TO THE SAME COUNTRY ARE ALSO BEING CONSIDERED BY THE COMMISSION UNDER THE CONFIDENTIAL PROCEDURE. IN PARTICULAR, THE CIRCUMSTANCE THAT A SPECIFIC SITUATION IS BEING DEALT WITH UNDER THE 1503 PROCEDURE CANNOT BE AN IMPEDIMENT TO PUBLIC DISCUSSION BY THE COMMISSION OF ALLEGATIONS OR PROPOSALS MADE BY GOVERNMENTS CONCERNING THE SAME OR RELATED SITUATIONS. SOME PRECEDENTS EXIST ALREADY OF PUBLIC ACTION BY THE COMMISSION WITH RESPECT TO CERTAIN HUMAN RIGHTS SITUATIONS NOTWITHSTANDING THE FACT THAT COMMUNICA-

TIONS REGARDING THE SAME SITUATIONS HAD BEEN THE SUBJECT OF
EXAMINATION UNDER THE 1503 PROCEDURE. IN THE OPINION OF
THE GOVERNMENT OF THE NETHERLANDS THESE PRECEDENTS WERE
ENTIRELY CORRECT FROM A PROCEDURAL POINT OF VIEW. END
TEXT. VANDEN HEUVEL

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